

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jeffrey M. Harrington
Appl. No. : 10/788,644
Filed : February 27, 2004
For : BATTERY ASSEMBLY WITH
SHIELDED TERMINALS
Examiner : Tracy Mae Dove
Group Art Unit : 1745
Confirmation No. : 7236

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Adam Gilbert, Reg. No. 59,967

RESPONSE TO RESTRICTION REQUIREMENT DATED APRIL 2, 2007**Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant respectfully submits this response to the Restriction Requirement dated April 2, 2007.

The Restriction Requirement requires restriction to one of the following five Examiner-designated inventions:

- Group I (Claims 1-11, 21-29, and 37-43), drawn to a battery assembly;
- Group II (Claims 12 and 13), drawn to a battery assembly;
- Group III (Claims 14-18), drawn to a battery;
- Group IV (Claims 19 and 20), drawn to a housing; and
- Group V (Claims 30-36), drawn to a method for operating a hose reel mechanism.

The Applicant respectfully submits that the Restriction Requirement is in error because there would not be a serious burden on the Examiner if restriction between Groups I, II, III, and IV is not required. In order to establish reasons for insisting upon restriction, the Examiner must explain why there would be a serious burden if restriction is not required. See M.P.E.P. § 808.02, ¶ 2.

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The Examiner asserts that there would be a serious burden "because the inventions have acquired a separate status in the art in view of their different classification." However, the Examiner has classified the claims of Groups I-IV in class 429 and has classified the claims of Group V in class 242. Thus, the Applicant respectfully submits that the inventions within Groups I-IV have not acquired a separate status in the art. Additionally, the Examiner has not shown that each invention in Groups I-IV has formed a separate subject for inventive effort, for example by citing patents which are evidence of such separate status, and also of a separate field of search. Moreover, a search for one of the inventions in Groups I-IV is likely to result in finding art pertinent to the other inventions.

Thus, the Applicant submits that the Examiner has not established that there would be a serious burden in not restricting Groups I-IV based on any of the explanations provided in M.P.E.P. §§ 808.02(A)-(C). *See also* M.P.E.P. § 808.02 ("Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions."). Therefore, the Applicant respectfully requests reconsideration and withdrawal of the Requirement to restrict the claims to one of Groups I, II, III, and IV. In particular, Applicant believes that if any restriction is proper, restriction should only be required to one of two groups: (1) the aforementioned Groups I, II, III, and IV; and (2) the aforementioned Group V.

The Applicant hereby provisionally elects, with traverse, Group I and corresponding Claims 1-11, 21-29, and 37-43, for prosecution on the merits. The Applicant provisionally reserves the right to pursue the non-elected claims in one or more divisional applications.


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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 5/1/07

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